

REMARKS

The Applicants do not believe that examination of the response contained here will result in the introduction of new matter into the present application for invention. Therefore, the Applicants, respectfully, request that this response be entered in and that the claims to the present application, kindly, be reconsidered.

The Final Office Action dated November 16, 2005 has been received and considered by the applicants. Claims 1-26 are pending in the present application for invention. Claims 1-26 are rejected by the November 16, 2005 Final Office Action.

The Applicants hereby Petition to the Primary Examiner to reconsider the holding of finality for the November 16, 2005 office action.

The examiner made the November 16, 2005 office action final based on the assertion that an amendment made in the previous response filed by the applicants necessitated a new ground of rejection.

As stated within the MPEP at §706.07(a) under "present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p)."

The office action dated May 5, 2005 rejected claims 7, 8, 10 and 25 under the provisions of 35 U.S.C. §102(e) as being anticipated by U.S. Patent 6,530,083 issued in the name of Liebenow (hereinafter Liebenow). The response submitted September 5, 2005 by the applicants did not amend any of claims 7, 8, 10 and 25. In the office action dated November 16, 2005, the examiner rejected claims 7, 8, 10 and 25 under the provisions of 35 U.S.C. §103(a) as being obvious over Liebenow in view of U.S. Patent 5,721,583 issued in the name of Harada et al. (hereinafter Harada et al.) and made the office action dated November 16, 2005 final based on the contention that applicants'

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amendment necessitated the new grounds of rejection. The applicants, respectfully, point out that there were no rejections to claims 7, 8, 10 and 25 under the provisions of 35 U.S.C. §103(a) prior to the response submitted September 5, 2005 by the applicants. The only rejection to claims 7, 8, 10 and 25 that existed prior the response submitted September 5, 2005 by the applicants was the rejection under the provisions of 35 U.S.C. §102(e) as being anticipated by Liebenow. Moreover, claims 7, 8, 10 and 25 were not amended by the response submitted September 5, 2005 by the applicants. In fact claims 7, 8, 10 and 25 are in the same form as originally filed. Therefore, the finality of the Office Action dated November 16, 2005 is premature, at least regarding claims 7, 8, 10 and 25. Accordingly, the applicants petition the Primary Examiner to reconsider the holding of finality regarding the November 16, 2005 office action and to withdraw the holding of finality.

The response contained herein as been made in view of a Final Office Action; the finality of which is fully expected to be withdrawn because there is no question that the finality of the November 16, 2005 office action is premature. Accordingly, the applicants anticipate that a new non-final office action will issue that allows the applicants to fully respond to the new rejection that is presented in the November 16, 2005 office action with respect to original claims 7, 8, 10 and 25.

The Final Office Action rejects Claim 1 under the provisions of 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,530,083 issued in the name of Liebenow (hereinafter referred to as Lichenow).

The examiner states that Liebenow discloses the subject matter defined by the rejected claims. The applicants, respectfully, disagree. In the response to arguments the examiner asserts that the manual entry mechanism and procedure disclosed by Liebenow in Fig. 1, Fig. 4; Col. 4, lines 4-67; Col. 5, lines 1-47; Col. 7, lines 51-67; and Col. 8, lines 1-29 is equivalent to the recitation to automatically detect users with a predetermined viewing area defined by rejected Claim 1. The applicants point out that there is no automatic detection disclosed or suggested by Liebenow. More specifically, there is no automatic detection of users currently within a predetermined viewing area by Lichenow. Lichenow clearly teaches that the user may be prompted to provide their

identity, select their identity from a displayed list, enter their identity using an input/output device or provide their identity by depressing one of a number of user switches (see col. 4, lines 56-67). The fact that user input is required to identify the user is again affirmed on col. 6, lines 1-12 and col. 7, lines 60-67. There is no disclosure, or suggestion, within Liebenow for automatic detection of which users are currently within a predetermined viewing area. The applicants, respectfully, submit that even a broad reading of the terms recited by the rejected claims does not allow for "automatic" to be viewed as synonymous or equivalent to the manual user input taught by the teachings of Liebenow. Additionally, there is no predetermined viewing area disclosed or suggested by Liebenow.

The applicants have the right to be their own lexicographer. The terms that are used within the claims can be interpreted broadly during prosecution but that interpretation must be consistent with the definition of the term that is supplied within the specification to the present invention. The applicants, respectfully, assert that no reasonable reading of the term "automatically detect" can be read as manual as the rejection asserts.

The applicants point out that rejected Claim 1 defines subject matter for "a composite user profile" that is useful for generating a set of "entertainment recommended options". The entertainment options are defined by the specification to the present invention on page 6, in the middle of paragraph 19 "genre of entertainment options preferred, e.g. type of music or television type". The rejection fails to indicate any composite user profile useful for generating a set of music or television options within Liebenow.

The Office Action rejects Claims 2, 6-8, 10, and 24-26 under the provisions of 35 U.S.C. 103(a) as being obvious over Liebenow in view of US Patent No. 5,721,583 issued in the name of Harada et al. (hereinafter referred to as Harada et al.).

The MPEP at §2143 states the basic requirements of a *prima facie* case of obviousness.

"To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to

modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)."

Initially, the applicants direct the examiner to the response to the rejection of Claim 1 under the provisions of 35 U.S.C. §102(c) as being anticipated by Liebenow for the portion of the portion of the rejection that refers to Liebenow.

The examiner asserts that Harada et al. teach voice recognition and fingerprint recognition. The rejection thus seeks to combine the teachings of Harada et al. with Liebenow to arrive at the claimed subject matter. Harada et al. teach recognition of individual users. There is no disclosure or suggestion within Harada et al. for the automatic detection of which users are currently within a predetermined viewing area. The applicants, respectfully, point out that there must be some suggestion or motivation to combine the references. The Office Action has not supplied any suggestion or motivation to combine Harada et al. with Liebenow to arrive at the claimed subject matter. Therefore, this rejection does not make a prima facie case of obviousness.

Regarding Claim 2, in the previous Office Action, the examiner took official notice that it is well known to use hand print recognition systems as biometric recognition systems. The applicants traversed the official notice taken in the previous office action and requested that the examiner provide prior art references that illustrate that it is well known to automatically detect which users are currently within a predetermined viewing area using hand print recognition systems. The Final Office Action makes no mention of the official notice previously and has not provided any references to substantiate the alleged well attributes alluded to in the official notice. As stated in the MPEP §2144.03 C, if the "applicant adequately traverses the examiner's assertion of official notice, the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained." Therefore, the assertion of official notice is deemed withdrawn.

The examiner asserts that Harada et al. teach systems that employ voice recognition and fingerprint recognition, and that such systems were well known, therefore, that it would have been obvious to modify Liebenow with the teachings of Harada et al. The applicants, respectfully, point out that Harada et al. issued prior the filing of Liebenow; yet, there is no mention, disclosure or suggestion within either reference that would lead a person skilled in the art to make the combination made by the rejection contained in the Final Office Action.

Furthermore, the rejection does not provide any reasonable expectation of success for the combination made in the Final Office Action.

Therefore, this rejection does not make a prima facie case of obviousness.

The Office Action rejects Claim 3 under the provisions of 35 U.S.C. 103(a) as being obvious over Liebenow in view of Harada et al. and further in view of US Patent No. 5,164,992 issued in the name of Turk (hereinafter referred to as Turk). This rejection is traversed for the reasons stated in the response to the rejection of Claim 2.

The Final Office Action rejects Claims 4-5, 9, 11-21 and 23 under the provisions of 35 U.S.C. 103(a) as being obvious over Liebenow in view of US Patent No. 6,813,775 issued in the name of Finseth (hereinafter referred to as Finseth).

Regarding Claims 4 and 5, the rejection alleges that Finseth teach selectively storing a predetermined portion of each interaction in a view history. The applicants do not concur. There is no disclosure or suggestion for selectively storing a predetermined portion of each interaction in a view history as defined by the present application for invention.

Regarding Claims 11-21 and 23, there is no disclosure or suggestion for and positive or negative entertainment options as defined by the present application for invention.

Therefore, this rejection is traversed.

The Final Office Action rejects Claims 9, 11-21 and 23 under the provisions of 35 U.S.C. 103(a) as being obvious over Liebenow in view of Harada et al. and further in view of Finseth.

As previously discussed, there is no disclosure or suggestion for and

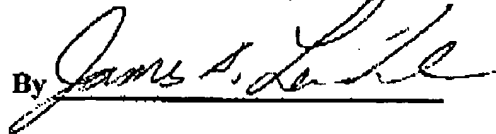
positive or negative entertainment options as defined by the present application for invention. Therefore, this rejection is traversed.

The Final Office Action rejects Claim 22 under the provisions of 35 U.S.C. 103(a) as being obvious over Liebenow in view of Finseth and further in view of US Patent No. 6,614,987 issued in the name of Ismail (hereinafter referred to as Ismail). The Applicants, respectfully submit that Claim 22 depends from Claim 21 which as previously discussed is believed to be allowable, therefore, Claim 22 is also believed to be allowable.

The Applicants are not aware of any additional patents, publications, or other information not previously submitted to the Patent and Trademark Office which would be required under 37 C.F.R. 1.99.

In view of the foregoing amendment and remarks, the Applicants believe that the present application is in condition for allowance, with such allowance being, respectfully, requested.

Respectfully submitted,

By 

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CERTIFICATE OF TRANSMISSION

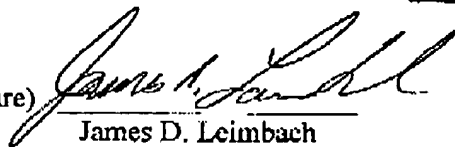
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